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SUBJECT: STATUS REPORT ON ARMENIA'S FULFILLMENT OF JOINT
ACTION PLAN

REF: A. A. YEREVAN 434
[1](#)B. B. YEREVAN 313
[1](#)C. C. YEREVAN 436
[1](#)D. D. HASTINGS-HARDIMAN 7/14/09 EMAIL

Classified By: AMB Marie L. Yovanovitch, reasons 1.4 (b, d).

SUMMARY

[1](#)1. (S/NF) Four months have elapsed since the Armenian Government signed the U.S.-Armenia Joint Action Plan (hereinafter the Plan) committing itself to strengthen Armenia's export control regime. With two months remaining for Armenia to fulfill its commitments under the Plan, Post has compiled a status report on developments to date. The GOAM is on schedule in taking the concrete steps identified in the Plan. We have received repeated assurances from the President, Foreign Minister and Defense Minister of Armenia's commitment to implement the Plan by the end of the September. We are pleased by the progress Armenia has shown to date and believe that Armenian authorities want to establish the stronger export control regime; however, Post has no illusions about the challenges that lie ahead. For good reason, the USG established a six month timeline to create a stronger export control regime in Armenia, a process that usually takes years. We continue to press the Armenians to meet all deadlines, but recognize that even with high-level political will and good faith efforts by the bureaucracy, a complete overhaul of the export control regime could take longer than six months to achieve. Post remains actively engaged in working with the GOAM to move the process along as quickly as possible and stands ready to further support Washington agencies and the U.S.-Armenia Export Control Working Group in this process. END SUMMARY.

POLITICAL COMMITMENT AT HIGHEST LEVELS

[1](#)2. (S/NF) Since the GOAM signed the Plan on March 27 in Washington, visiting USG officials and Post alike have received repeated assurances from Armenian leaders of their political commitment to carrying out the Plan on time. During Deputy Secretary James Steinberg's July 11 visit to Yerevan, President Sargsian expressed his commitment to implementing the Plan and said that in September it would be fully implemented, including those elements requiring parliamentary ratification. When the issue was raised during EUR Assistant Secretary Philip Gordon's June 9 meeting with President Sargsian in Yerevan, Sargsian stated that strengthening export controls and border security "is in Armenia's interests," and that the Armenian government was

committed to carrying out "every letter" of the Plan (ref A).

Sargsian also noted that if there was a problem in the way Armenia was carrying out its commitments, he wanted to know, and was willing to rectify it.

¶3. (S/NF) Post's principal interlocutor has been Foreign Minister Edward Nalbandian, who has taken pains to assure of Armenia's intention to comply with the terms of the Plan. During the week of July 6, the Ambassador raised the Plan with Nalbandian once again, informing him of the June 10 RPG attack in Iraq that resulted in four new casualties to U.S. troops. She urged rapid progress on the Plan, and emphasized the need to meet the 180-day deadline, set to expire on September 24, 2009. Nalbandian promised to take the necessary action.

¶4. (S/NF) On July 13, Ambassador Yovanovitch met with Minister of Defense Seyran Ohanian to gauge MoD's commitment to the Plan, and to brief Ohanian on the additional U.S. soldiers wounded in Iraq on June 10. He assured the Ambassador of his ministry's fullest cooperation in the process. The next day, at the French National Day reception, Minister Ohanian pulled the Ambassador aside to tell her he had discussed the matter with President Sargsian the night before, and had been told by Sargsian to ensure MoD's full and timely compliance in carrying out the Plan within the agreed timeframe.

ACTIONS TO DATE

¶6. (S/NF) To date the GOAM has taken a series of steps to carry out its commitments under the Plan signed March 27. On the eve of the first meeting of the U.S.-Armenia Export Control Working Group (ref B), Armenian Prime Minister Tigran Sargsian (no relation to President Sargsian) issued an official decree that established and tasked an interagency commission to strengthen Armenia's export controls. Deputy FM Kirakossian was appointed head of this commission, which includes representatives from the Ministries of Foreign Affairs, Defense, Economy, and Justice, and from Customs (i.e., the State Revenue Committee), the National Security Service, and staff from the Government (i.e., the Prime Minister's staff). During the initial meeting of the U.S.-Armenia Export Control Working Group on April 29-30, the U.S. committed to send a team of experts to Armenia to help Armenia revise its munitions control list. At the same meeting, Armenia advised it would provide the U.S. with a proposed roadmap to implement its commitments in the Plan by May 14.

¶7. (S/NF) On May 19, the Ministry of Foreign Affairs provided the Embassy with the promised timetable containing the necessary legal acts and implementation of reforms it proposed to undertake to strengthen its export control regime. The timetable included five "actions" and accompanying "goals" and a "scheduled" date of completion, as follows:

"1. Research of proposals regarding the improvement of current process of providing licenses for export of controlled items, including the proposed amendments to the 'Law on Export control of dual-use items and technologies and its transit across the territory of the Republic of Armenia' and to the Government decree 212-N, 19 Feb 2004"

The declared goal: "To improve export control procedures in order to concretize (sic) the criterias (sic) of providing export licenses."

Scheduled completion date: the first ten days of July 2009.

"2. Amendments to the Government's Decree 822-N, 6 July 2007"

The declared goal: "To harmonize current list of dual-use items with the Wassenaar arrangement lists."

Scheduled completion date: the first ten days of September 12009.

"3. Draft of Government Decree on process of providing End-user certificate"

The declared goal: "To create legal base for providing end-user certificate"

Scheduled completion date: the first ten days of July 2009

"4. Amendments to the Government's Decree 960-N, 31 July 2003"

The declared goal: "To improve the mechanism of providing licenses for export of munitions (including the verifying of end-user); To harmonize current list of munitions with the Wassenaar arrangement lists."

Scheduled completion date: the first ten days of September 12009.

"5. Training of the experts related to the export control"

The declared goal: None listed.

Scheduled completion date: 2009-2010

18. (S/NF) On May 27 and May 29, 2009, U.S. export control experts met in Yerevan with an Armenian inter-agency team to explore ways of strengthening Armenia's controls for munitions exports (ref C). The day prior to these discussions, the Armenians presented a munitions list not previously shared with the U.S., based on the European Union's Common Military List. The two days of discussions failed to clarify how Armenia currently implements export controls, particularly with respect to munitions items. However, the Armenians stated that they intended to revise their government resolutions currently covering export controls, and to clearly separate the control of munitions items from dual-use items. They said they intended to base their revised munitions list on the Wassenaar list. They anticipated having draft decrees available for consultations

with the U.S. by July 15, and to complete the process of revising these decrees by September 1.

19. (S/NF) On July 8, representatives of the Ministry of Defense presented to the Embassy's Defense Attache and Chief of the Office of Defense Cooperation a list of the draft decrees and laws which would amend the government resolutions currently covering export controls, and clearly separate the control of munitions items from dual-use items. The list contained brief explanations of the status of the draft decrees and laws. Following are the list of draft laws:

"INFORMATION

On mechanisms of export and transit control of goods and their details, which are considered as armaments.

In order to provide sound mechanism of control over armaments and their details export and transit Defense policy department of MoD RA has elaborated a number of draft legal acts.

The elaboration of the above-mentioned drafts was determined by the necessity of executing control over some kinds of activity in order to maintain international security, as well as by the circumstance, that article 83.5 of RA constitution states, that the conditions, cases and order of executing control and oversight over the activity of natural and legal entities will be foreseen only by the laws. These are the drafts:

Draft law on "Amendments to custom code of RA", which will foresee, that some sorts of activities relating to crossing RA custom border may be licensed by the law,

Draft law on "Amendments to RA law "On Licensing". The draft will enable executing control over export and/or transit of some goods and their details, which will be considered as armament through licensing. It foresees that the legal entities and corporate individuals may perform the mentioned activity only if they get appropriate license. Further, in order to maintain international security, they will inform the licensing agency on every case of export or transit. The list of goods and details, which are considered as armaments, will be approved by the Government,

Draft law on "Amendments to RA law on State duties", which imposes duties for getting the abovementioned license,

Draft RA Government decree "On order of licensing export and transit of goods and their details, which are considered as armaments. The draft will regulate the relations related to licensing. Also the list of goods and their details will be attached to this decree.

Draft decree of RA Government on amendments to RA decree No. 214-N dated on 20.02.2003 "On military-technical committee". The mentioned draft amends authority of military-technical committee to give recommendations on the export and/or transit of the mentioned goods. It will consult the licensing agency, whether the export and/or transit may constitute a threat for international security.

Besides, presently the existing list of dual-use goods is also being reviewed.

The mentioned drafts are presently in process of discussion in MoD RA. All the suggestions will be summarized and the drafts will be amended and sent to appropriate agencies (ministries) for their suggestions. In order for the drafts to become law, they will then be sent to RA government, for consent, and then to the National Assembly."

¶10. (S/NF) On July 10, the Ministry of Defense requested a meeting with the Embassy, where it presented to the DCM drafts of the three proposed laws and four proposed decrees. The Embassy translated and sent this draft legislation to Washington on July 14 (ref D), for review by U.S. legal experts on dual use and munitions list controls. The MoD representatives, headed by Colonel Davit Tonoyan, Chief of the Defense Policy Department, said that the MoD was prepared to submit these seven draft legislative documents for inter-agency review by Armenian Government agencies and ministries, which would require up to a month to complete. Colonel Tonoyan also offered to hold off on submitting the draft legislation pending review by U.S. Government experts, but cautioned that the review would delay the launch and completion of the inter-agency approval process. After

consulting with Washington, the Ambassador on July 13 shared with Minister Ohanian Washington's request to refrain from submitting the legislation through Armenia's inter-agency review process until U.S. legal experts had a chance to review the legislation and consult with the drafters during their planned July 27-31 working visit to Armenia. Minister Ohanian agreed to this request and to the working visit of the U.S. legal experts, and said his staff would provide its full cooperation during the visit.

¶11. (S/NF) At the July 10 meeting, DCM also delivered a diplomatic note to Deputy Foreign Minister Kirakossian that requested a status report on Armenia's compliance with the Plan to date, in particular its progress on meeting Items 1-6 of the Plan. The note also requested a status report on the actions outlined in the timeline that the Ministry presented to the Embassy on May 19. Lastly, the note requested a status report on the verbal commitments that MoD representatives gave to U.S. munitions list expert John Albert during the May 27 and May 29 meetings to re-write or revise four particular Armenian Government resolutions currently covering export controls, and to clearly separate the control of munitions items from dual-use items.

¶12. (S/NF) On July 21, the Ministry of Foreign Affairs sent the Embassy a diplomatic note in response to the Embassy's note of July 10. An unofficial translation of the note follows:

"With the technical assistance of the European Commission and through the information exchange tool (TAIEX) the Ministry of Economy has invited experts in order to ensure the provision 1 of the Schedule sent by MFA to the US Embassy on May 19. The schedule for experts' visit is currently being clarified.

Based on the experts' assessment the final proposals regarding the compliance of the legal framework regulating the permission for export of controlled goods to international standards will be developed.

As defined by the provision 3 of the Schedule, on July 1, 2009 the Ministry of Economy presented the draft of GOAM decree on "The development of the draft legal act on the provision of the confirmation to the final user" to GOAM discussion.

The information regarding the future activity of the Ministry of Defense mentioned in the Schedule has been passed to the Embassy during the meeting at MFA on July 10, 2009."

¶13. (S/NF) During a July 21 visit by Emboff to the MFA, George Kocharian from the Arms Control and International Security Department stated that the draft law on the process governing the issuance of end-user certificates referred to in the Ministry's July 21 note is currently with the staff of the Prime Minister. After the PM's staff review the draft law, it will be submitted to the inter-agency review process where Armenian Government ministries and agencies will have the opportunity to comment on it before the Ministry of Economy incorporates -- or not -- the feedback before submitting to Armenia's parliament for review and enactment.

HICCUPS ALONG THE WAY

¶14. (S/NF) The Armenian leadership is behind the Plan, and the GOAM is still on schedule with the steps it must take to establish the new export control regime at the end of September. Nevertheless, as Washington and Post both expected, encountered a number of road bumps. One of the major problems has been inter-agency coordination in carrying out the actions outlined in the Plan. (COMMENT: This is a perennial problem with the Armenians, on almost every bilateral issue and program, and is not unique to the export control issue. END COMMENT.)

¶15. (S/NF) Another hindrance has been the secrecy with which the authorities have approached the Plan, which has meant that very few government personnel besides President Sargsian, NSS Chief Lt. Gen. Gorik Hakobian, FM Nalbandian, and Deputy FM Kirakossian know its background and why their respective ministries and agencies are being asked to carry out the reforms. This exceptional close-holding of the issue has been apparent at meetings where some technical specialists have expressed ignorance of the imminent deadlines that they must meet.

THE CHALLENGES AHEAD

¶16. (S/NF) Post has no illusions over the challenges that lie ahead. For good reason the U.S. demanded that the Armenian Government overhaul, in the space of six months, an entire, dysfunctional export control regime that is apparently not well understood, coordinated, or properly enforced by the Armenians themselves.

¶17. (S/NF) The overhaul requires not only a change of legislation, policies, and procedures, but also a change in

mentality with respect to strengthening Armenia's flawed export control regime. As with any reform the U.S. asks Armenia to undertake, one can expect to encounter phases of basic misunderstanding about the necessity of the reform, an instinctual bureaucratic resistance to jettison entrenched -- though ineffective and antiquated -- processes, and turf battles over which ministry or agency should be responsible (or not) for shepherding the reform through the approval and implementation phases. In any country, this would usually be a multi-year project, and -- to their credit and despite the expected bumps) the Armenian leadership is sticking with the reform process. According to our experts, we have successfully passed these phases. The working level has heard its political masters and is working quickly to make it so, but the reality is that the complexity of the task may make it impossible for everything to be in place by the end of September.

COMMENT

¶18. (S/NF) On more than one occasion, President Sargsian has said that Armenia should strengthen its export controls as a matter of national security and an assertion of sovereignty. Post has stressed repeatedly that Armenia itself cannot afford a lackadaisical export control regime that compromises its foreign relations and its security and integrity as a state. We have been clear with Armenia's leaders that they must move quickly to modernize Armenia's export control regime so that it meets international standards, and that the U.S. stands ready to assist Armenia in this critical endeavor. We have also made clear that the outcome of this effort will have a profound effect on the future of our bilateral relations. From our discussions with the President and his inner circle, we believe the Armenians understand the gravity of the matter, and genuinely want to move forward. The challenge, remains whether the Armenians' have the capacity to adopt the necessary legislation and regulations on a very tight timeline. We continue to press the Armenians to meet all deadlines, but recognize that even with high-level political will and good faith efforts by the bureaucracy, a complete overhaul of the export control regime could take longer than six months to achieve.

YOVANOVITCH